

Application No. 10/595,736
Amendment dated February 26, 2009
Office Action dated January 6, 2009

REMARKS

Claims 1, 5-9 and 23-25 remain pending, though only Claims 1, 5, 6, 23 and 24 are in active prosecution.

Claim 1 has been amended and Claims 26-28 have been added.

Claims 23 and 24 have been indicated to be allowable, for which Applicants extend their thanks.

Claims 1 and 5-6 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for the reasons set forth in the Action, page 2, paragraphs 2-4.

Applicants' amendment to Claim 1 deals with the Section 112 rejection set forth in paragraph 3, page 2.

As regards the Section 112 rejection set forth in paragraph 4, page 2, Applicants traverse.

The Examiner has pointed to Applicants' use of the term "optionally" in the claims and asserts that that term "renders the scope of the claim(s) unascertainable." The Examiner cites to MPEP § 2173.05(d) in apparent support for his assertion.

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Applicants submit that MPEP § 2173.05(d) indicates that "exemplary claim language" "should not be applied as *per se* rules" for indefiniteness, but rather are fact specific.

In addition, MPEP § 2173.05(h)III is entitled: Alternative Limitations; "OPTIONALLY". This section indicates that provided no ambiguity exists as to which alternatives are covered the use of the term "optionally" is acceptable.

Moreover, according to the U.S. Patent and Trademark Office website over 11,000 (nearly 12,000) patents have been granted having at least one claim containing the term "optional". The most recent one of these patents was granted on February 24, 2009. See U.S. Patent No. 7,496,837, claims 10, 19, 29 and 35.

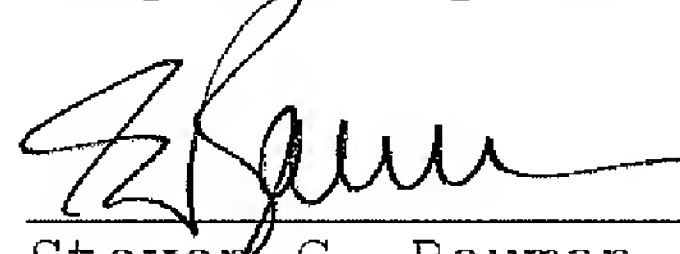
Thus, Applicants submit that the use of the term "optionally" does not render the claim indefinite, but merely introduces the possibility that a second semiconductor chip may be included in the semiconductor device provided in the step(s) of the method.

Applicants request a prompt and favorable re-examination of the pending claims, based on the amendments and remarks above.

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Respectfully submitted,



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